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CHANDIGARH ADMINISTRATION
HOME DEPARTMENT
(GURDWARA ELECTIONS)

Notification

The 25th October, 2024

No. 74652-Judicial-2024/15454.—In supersession of the Chandigarh Administration, Home Department, notification No. 74652-IH(8)-2021/12175, dated 26.08.2021, the Administrator, Union Territory, Chandigarh is pleased to appoint Sh. Mandip Singh Brar, IAS, Home Secretary, Chandigarh Administration, as Commissioner, Gurdwara Elections for the Union Territory, Chandigarh in addition to his own duties, with immediate effect.

Chandigarh :
The 22th October, 2024.

RAJEEV VERMA, IAS,
Adviser to the Administrator,
U.T., Chandigarh.

Signature Not Verified

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Jalinder Kumar
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CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 21st October, 2024

No. 13/2/163-HII(2)-2024/16044.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **24/2023** dated **16.08.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

HARIKESH S/O SH. SHRI RAM, H.NO. 526/3, H.NO. 52613, SMALL FLATS MALOYA, U.T. CHANDIGARH (Workman)

AND

M/S J. S. PEST CONTROL, SCO NO. 393, TOP FLOOR, SECTOR 37.D, CHANDIGARH THROUGH ITS PROPRIETOR / PARTNER. (Management)

AWARD

1. Harikesh, workman has presented industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that the workman was appointed as Sprayer by the management on 11.05.2018. The workman remained in the uninterrupted employment up to 24.11.2022 when his services were illegally and wrongfully terminated by refusal of work. The workman was drawing ₹ 10,700/- per month as wages at the time of termination which were less than the minimum rate of wages plus ₹ 3,000/- on voucher which is not taken into salary account. On 24.11.2022 as usual the workman requested the management to adjust ₹ 3,000/- in his salary account so that there should not be any loss to the workman in provident fund, ESI and gratuity benefits. The management not only refused to adjust the amount in regular wages but also refused work to workman without assigning any reason or notice. The refusal of work which amounts to termination is retrenchment under Section 2(o) of the ID Act. The management has also violated Section 25F of the ID Act. No charge sheet was issued, no inquiry was held and the workman was not paid retrenchment compensation at the time of termination. The persons junior to him were retained in service when the services of the workman were terminated which is violation of Section 25G of the ID Act and makes the termination void. For his reinstatement, the workman served upon the management a demand notice dated 29.11.2022. The management neither denied the contents of the demand notice nor took the workman back on duty. The Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh was requested for his intervention. The Conciliation Officer intervened but the dispute could not be settled within the stipulated period as the management did not appear on any date fixed for settlement. The termination is illegal, wrongful, motivated, against the principle of natural justice and unfair labour practice. The workman remained unemployed during the period i.e. from the date of termination to till date. Prayer is made that the workman may be reinstated with continuity of service along with full back wages without any change in his service condition.

3. On notice, management contested the claim statement by filing written statement dated 05.10.2023 (filed on 05.10.2023), wherein preliminary objections are taken on the ground that the present reference does not fall within the ambit of Section 2A of the ID Act as the management never terminated the services of the petitioner-claimant (*here-in-after 'workman'*), rather the workman himself abandoned the job. If the workman is still interested in job, he may join the management on the same terms & conditions on which he was earlier working with the management.

4. Further on merits, it is stated that the workman joined the management in the month of May, 2018 and was drawing wages ₹10,700/- per month. The management has never refused work to the workman. Rather the workman of his own left the job without assigning any reason. The workman has worked till the date of abandonment of his job in the month of November, 2022 without any intimation to the management and thereafter he did not turn up for duty. The management has not violated the provisions of ID Act. An offer had also been made to the workman before the Conciliation Officer to join the duties but the workman failed to join the same. The dispute could not be settled due to adamant attitude of the workman. Further similar stand is taken as taken in the preliminary objections. It is further stated that since the services of the workman have never been terminated by the management and the workman has himself abandoned his job by not reporting for duty with the management, the question of reinstatement with back wages does not arise. The workman not entitled to any back wages because he has abandoned his job on his own without prior intimation to the management as a result of which the management has to suffer loss. Rest of the averments of claim statement are denied as wrong and prayer is made that the claim may be dismissed with exemplary costs in the interest of natural justice, equity and fair play.

5. The workman filed rejoinder on 20.11.2023 wherein the contents of the written statement are denied as wrong and incorrect and averments of claim statement are reiterated.

6. From the pleadings of parties, following issues are framed vide order dated 20.11.2023 :-

1. Whether the termination of the services of workman is illegal ? If so, to what effect and what relief he is entitled to ? OPW
2. Whether the present reference is not maintainable ? OPM
3. Relief.

7. In evidence the workman Harikesh examined himself as AW1 and tendered his affidavit Exhibit 'AW1/A'. On 29.02.2024 Learned Representative for the workman closed evidence in affirmative.

8. On the other hand, management examined MW1 Rajat Oberoi - Senior Executive, M/s J. S. Pest Control, who tendered his affidavit Exhibit 'MW1/A'. On 29.07.2024 Learned Representative for the management closed oral evidence. On 14.08.2024 Learned Representative for the management closed documentary evidence.

9. I have heard the arguments of Learned Representatives for the parties and perused the judicial file. My issue-wise findings are as below :-

Issue No. 1 :

10. Onus to prove this issue is on the workman.

11. Under this issue the workman Uma Shankar examined himself as AW1 and vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto, which are not reproduced here for the sake of brevity.

12. On the other hand, to controvert the evidence led by the workman, management examined MW1 Rajat Oberoi, who vide his affidavit Exhibit 'MW1/A' deposed that the present reference does not fall within the ambit of Section 2A of the ID Act as the management has never terminated the services of the petitioner (*here-in-after 'workman'*), rather the workman has himself abandoned his job. If the workman is still interested in the job, he may join the management on the same terms & conditions on which he was earlier working with the management. The workman joined the management in the month of May, 2001 and worked till November, 2022. The management has never refused work to the claimant. Rather the workman of his own left the job without assigning any reason. The workman had worked with the management till the abandonment

of his job in the month of November, 2022 without any intimation to the management and thereafter he did not turn up for duty. The management has not violated the provisions of the ID Act as alleged in the claim. MW1 further deposed that besides above an offer had also been made to the workman before the Conciliation Officer to join the duties but the workman failed to join the same. The dispute could not be settled due to adamant attitude of the workman. In the cross-examination of the workman, further an offer had been given to the workman to join the duties, but he failed to join the duties. The only intention of the workman is to get the money from the management. The allegation that termination order passed is totally illegal, unjustified, against the provisions of natural justice, equity and fair play is wrong and empathetically denied. No verbal termination order has ever been passed by the management, rather the workman has himself abandoned his job and did not turn up for duty till date. Since the workman abandoned his job on his own without intimation to the management, so no compensation, no notice etc. was required and the question of reinstatement with back wages does not arise. The workman is not entitled to any back wages because he has abandoned his job on his own without any prior intimation to the management as a result of which the management has to suffer loss. The workman has not pleaded in the claim statement and in the affidavit that he is unemployed and that being the position in fact, the workman is not entitled for any back wages.

13. From the oral as well as documentary led by the parties, it comes out that workman has alleged that he was appointed as Sprayer by the management on 11.05.2018 and he remained in continuous employment of the workman up to 24.11.2022 when his services were terminated by the management with verbal order of refusing of work. So far, the date of appointment of the workman is concerned, the management in para 1 of written statement / reply on merits, categorically stated that the workman joined the management in the month of May, 2018. So far, the period of service of the workman is concerned, the management's witness MW1 in para 2 of his affidavit Exhibit 'MW1/A' categorically stated that the workman joined the management in the month of May, 2018 and worked till November, 2022. From the aforesaid facts it is proved that admittedly workman remained in un-interrupted employment of the management from May, 2018 to November, 2022.

14. It is undeniable facts of the parties that the workman is a 'workman' as defined under Section 2(s) of the ID Act and the management is 'industry' as defined under Section 2(j) of the ID Act. The fact is not disputed that the workman has completed continuous service of 240 days in 12 calendar months immediately proceedings termination of his services (services being terminated on 24.11.2022). Thus, the workman fulfills the requirement of Section 25B of the ID Act. Once the workman falls within the definition of continuous service under Section 25B of the ID Act, the provisions of Section 25F of the ID Act is attracted which lays down certain conditions that an employer must comply on retrenchment of workman. Learned Representative for the workman contended that the services of the workman were terminated on 24.11.2022 without complying with the provisions of Section 25F of the ID Act. On the other hand, the management has contested the termination claiming that the workman voluntarily abandoned the services and thus, the workman would cease to be in 'continuous service' as defined under the ID Act and Section 25F of the ID Act is inapplicable. To my opinion, the contention of the management that workman abandoned the service cannot be accepted for the reason that as and when the workman remained absent from duty, it was bounded duty of the management to issue notice asking him to report for duty and to take necessary action to terminate his services. In the present case, MW1 when put to cross-examination stated that no letter was issued to the workman for joining the duty on account of his alleged absence. The volunteer statement of MW1 that workman was telephonically informed is without any basis and thus not acceptable. In the absence of any notice, issued by the management to the workman calling him to join the duty, an inference cannot be drawn that the workman has abandoned the service. As far as compliance of Section 25F of the ID Act is concerned, MW1 in his cross-examination stated that the management has not issued the workman any show-cause notice, charge-sheet and did not hold inquiry for alleged absence from duty. From the aforesaid version of MW1 accompanied with the fact that it is not the case of the management that workman was issued prior notice or offered or paid notice pay in lieu of prior

notice or that workman was paid retrenchment compensation at the time of termination of his service, thus, it is proved that the management failed to comply with the conditions laid down under Section 25F of the ID Act. Thus, the termination of services of the workman without following the mandate of Section 25F of the ID Act, is illegal and hereby set aside.

15. The willingness of the workman to re-join duty can be gathered from the facts & circumstances of the case and cross-examination of the workman where workman / AW1 has stated that he is ready to join the duty if back wages are paid. On the other hand, MW1 in his cross-examination stated that they are ready to reinstate the workman but they are not ready to pay back wages. MW1 stated that he cannot comment whether the management is ready to give benefit of continuity of service to the workman on his reinstatement because he does not know the meaning of continuity of service. MW1 in his cross-examination further stated that he is ready to reinstate the workman and he on behalf of the management agree that the issue of continuity of service and back wages be left for adjudication of this Court.

16. The services of the workman were terminated w.e.f. 24.11.2022 and immediately thereafter on 29.11.2022 the workman raised the industrial dispute challenging his order of termination as illegal and seeking reinstatement with continuity of service along with full back wages. Prompt raising of industrial dispute would disprove the management's plea of willful long absence from duty. There is no ground to assume that the workman was not willing to join the duty or that he has abandoned the job.

17. It is not the case of the workman that while terminating the services of the workman juniors to him were retained in service. Further, the workman has not placed on record any document to show that after the termination of his services the management appointed new employees in his place. As such, violation of provisions of Section 25G & 25H not proved.

18. As discussed above, verbal order of termination of services of the workman w.e.f. 24.11.2022 passed in violation to Section 25F of the ID Act is illegal, therefore, the workman will be entitled to continuity of service along with back wages.

19. As far as back wages are concerned, Learned Representative for the management argued that the workman in his claim statement and affidavit did not plead that he is unemployed, therefore, the workman is not entitled to any back wages. To my opinion, the aforesaid argument advanced by Learned Representative for the workman is devoid of merits because the workman in para 6 of the claim statement specifically pleaded that he remained unemployed during the period i.e. from the date of termination to till date. AW1 when put to cross-examination stated that at present he is not working anywhere and jobless. Learned Representative for the workman further argued that the workman is gainfully employed. To support his arguments Learned Representative for the workman referred cross-examination of AW1 wherein he stated that his family consist of himself wife and two minor children and one child is school going. Monthly expenditure of his family is about ₹ 8,000/- to ₹ 9,000/-. He earns livelihood by doing labour work of loading & unloading and able to earn about ₹ 12,000/- ₹ 15,000/- per month. The workman in his claim application and affidavit Exhibit 'AW1/A' pleaded that he was drawing ₹ 10,700/- per month as wages at the time of termination of his services. The management in para 1 of written reply, on merits, also pleaded that the workman was drawing wages of ₹ 10,700/- per month. Thus, the last drawn monthly wages of the workman in the tune of ₹ 10,700/- is not disputed. To my opinion, so far gainful employment is concerned, any income arising independent of any employment cannot be computed while deciding the issue of gainful employment. In the present case, the management has failed to prove adequate remuneration out of employment received by the workman during the interregnum period. Any other amount received or earned by the workman by using his / her personal skill or experience or doing the labour work and miscellaneous work cannot be considered to be the gainful employment. It is not the case of the management that the workman is employed in any establishment during such period and is receiving adequate remuneration during any such period and the part thereof. Consequently, the management has failed to prove that the workman is gainfully employed.

20. In view of the facts & circumstances of the case, the workman is held entitled to reinstatement with continuity of service along with 75% back wages.

21. Accordingly, this issue is decided in favour of the workman and against the management.

Issue No. 2 :

22. Onus to prove this issue is on the management.

23. Learned Representative for the management argued that the present reference is not maintainable as it does not fall within the ambit of Section 2A of the ID Act. The workman has abandoned his services without assigning any reason and without intimation to the management. To my opinion, as per the detailed discussion on issue No.1 above, the management has failed to establish that the workman has abandoned the job. The management has also failed to prove the period of long absence from duty of the workman, as the workman remained in the employment of the management w.e.f. May, 2018 to 24.11.2022 and his services were terminated w.e.f. 24.11.2022 and the workman has raised the industrial dispute by issuing demand notice on dated 29.11.2022. The conciliation proceedings failed relating to the demand notice dated 29.11.2022 received in the office of Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh on 09.01.2023 and in view of the advice given by Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh vide failure report Memo No.874 dated 20.03.2023, to approach the appropriate forum for adjudication of the dispute, the workman filed the claim statement before this Court on 21.03.2023 with a valid cause of action and locus standi. Section 2A of the ID Act states that any dispute or difference between an employer and an employee that arises from the employer's termination of employee's services is considered an industrial dispute and this includes dismissal, discharge, retrenchment or any other termination. I do not find any defect so far maintainability of the present industrial dispute reference is concerned.

24. Accordingly, this issue is decided against the management and in favour of the workman.

Relief :

25. In the view of foregoing finding on the issues above, this industrial dispute is allowed. The workman is held entitled to reinstatement with continuity of service and 75% back wages. The management is directed to comply with the Award within three months from the date of publication of the same in Government Gazette failing which the management shall be liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this Award till actual realisation. Appropriate Government be informed. Copy of this Award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.) . . . ,

(JAGDEEP KAUR VIRK)

PRESIDING OFFICER,

Industrial Tribunal & Labour Court,

Union Territory, Chandigarh.

UID No. PB0152

Dated : 16.08.2024

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT**Notification**

The 21st October, 2024

No. 13/2/162-HII(2)-2024/16048.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **25/2023** dated **16.08.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

CHINTU PASWAN S/O SH. UMESH PASWAN, H. NO. 2121, SMALL FLATS MALOYA, U.T. CHANDIGARH. (Workman)

AND

M/S J. S. PEST CONTROL, SCO NO. 393, TOP FLOOR, SECTOR 37-D, CHANDIGARH THROUGH ITS PROPRIETOR / PARTNER. (Management)

AWARD

1. Chintu Paswan, workman has presented industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that the workman was appointed as Sprayer by the management in the month of May, 2008. The workman remained in the uninterrupted employment up to 24.11.2022 when his services were illegally and wrongfully terminated by refusal of work. The workman was drawing ₹ 11,762/- per month as wages at the time of termination which were less than the minimum rate of wages plus ₹ 3,000/- on voucher which is not taken into salary account. On 24.11.2022 as usual the workman requested the management to adjust ₹3,000/- in his salary account so that there should not be any loss to the workman in provident fund, ESI and gratuity benefits. The management not only refused to adjust the amount in regular wages but also refused work to workman without assigning any reason or notice. The refusal of work which amounts to termination is retrenchment under Section 2(oo) of the ID Act. The management has also violated Section 25F of the ID Act. No charge sheet was issued, no inquiry was held and the workman was not paid retrenchment compensation at the time of termination. The persons junior to him were retained in service when the services of the workman were terminated which is violation of Section 25G of the ID Act and makes the termination void. For his reinstatement, the workman served upon the management a demand notice dated 29.11.2022. The management neither denied the contents of the demand notice nor took the workman back on duty. The Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh was requested for his intervention. The Conciliation Officer intervened but the dispute could not be settled within the stipulated period as the management did not appear on any date fixed for settlement. The termination is illegal, wrongful, motivated, against the principle of natural justice and unfair labour practice. The workman remained un-employed during the period i.e. from the date of termination to till date. Prayer is made that the workman may be reinstated with continuity of service along with full back wages without any change in his service condition.

3. On notice, management contested the claim statement by filing written statement dated 05.10.2023 (filed on 05.10.2023), wherein preliminary objections are taken on the ground that the present reference does not fall within the ambit of Section 2A of the ID Act as the management never terminated the services of the petitioner-claimant (*here-in-after 'workman'*), rather the workman himself abandoned the job. If the workman is still interested in job, he may join the management on the same terms & conditions on which he was earlier working with the management.

4. Further on merits, it is stated that the workman joined the management in the month of May, 2008 and was drawing wages ₹ 11,726/- per month. The management has never refused work to the workman. Rather the workman of his own left the job without assigning any reason. The workman has worked till the date of abandonment of his job in the month of November, 2022 without any intimation to the management and thereafter he did not turn up for duty. The management has not violated the provisions of ID Act. An offer had also been made to the workman before the Conciliation Officer to join the duties but the workman failed to join the same. The dispute could not be settled due to adamant attitude of the workman. Further similar stand is taken as taken in the preliminary objections. It is further stated that since the services of the workman have never been terminated by the management and the workman has himself abandoned his job by not reporting for duty with the management, the question of reinstatement with back wages does not arise. The workman not entitled to any back wages because he has abandoned his job on his own without prior intimation to the management as a result of which the management has to suffer loss. Rest of the averments of claim statement are denied as wrong and prayer is made that the claim may be dismissed with exemplary costs in the interest of natural justice, equity and fair play.

5. The workman filed rejoinder on 20.11.2023 wherein the contents of the written statement are denied as wrong and incorrect and averments of claim statement are reiterated.

6. From the pleadings of parties, following issues are framed vide order dated 20.11.2023:-

1. Whether the termination of the services of workman is illegal ? If so, to what effect and what relief he is entitled to ? OPW
2. Whether the present reference is not maintainable ? OPM
3. Relief.

7. In evidence the workman Chintu Paswan examined himself as AW1 and tendered his affidavit Exhibit 'AW1/A'. On 29.02.2024 Learned Representative for the workman closed evidence in affirmative.

8. On the other hand, management examined MW1 Rajat Oberoi - Senior Executive, M/s J. S. Pest Control, who tendered his affidavit Exhibit 'MW1/A' along with print out chat on whatsapp vide Mark '1'. On 29.07.2024 Learned Representative for the management closed oral evidence. On 14.08.2024 Learned Representative for the management closed documentary evidence.

9. I have heard the arguments of Learned Representatives for the parties and perused the judicial file. My issue-wise findings are as below :-

Issue No. 1 :

10. Onus to prove this issue is on the workman.

11. Under this issue the workman Chintu Paswan examined himself as AW1 and vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto, which are not reproduced here for the sake of brevity.

12. On the other hand, to controvert the evidence led by the workman, management examined MW1 Rajat Oberoi, who vide his affidavit Exhibit 'MW1/A' deposed that the present reference does not fall within the ambit of Section 2A of the ID Act as the management has never terminated the services of the petitioner (*here-in-after 'workman'*), rather the workman has himself abandoned his job. If the workman is still interested in the job, he may join the management on the same terms & conditions on which he was earlier working with the management. The workman joined the management in the month of May, 2008 and worked till November, 2022. The management has never refused work to the claimant. Rather the workman of his own left the job without assigning any reason. The workman had worked with the management till the abandonment

of his job in the month of November, 2022 without any intimation to the management and thereafter he did not turn up for duty. The management has not violated the provisions of the ID Act as alleged in the claim. Co-worker Uma Shankar flashed a whatsapp message to the deponent on his Phone No.9876641145 from mobile phone of the workman i.e. Mobile No.9876410581 on 23.11.2022 that "*sir sorry kal se main aur Chinto duty per nhi aaenge. Reason-salary*". The same being electronic message, therefore certificate under Section 65B of Evidence Act is attached with this affidavit. MW1 further deposed that besides above an offer had also been made to the workman before the Conciliation Officer to join the duties but the workman failed to join the same. The dispute could not be settled due to adamant attitude of the workman. In the cross-examination of the workman, further an offer had been given to the workman to join the duties, but he failed to join the duties. The only intention of the workman is to get the money from the management. The allegation that termination order passed is totally illegal, unjustified, against the provisions of natural justice, equity and fair play is wrong and empathetically denied. No verbal termination order has ever been passed by the management, rather the workman has himself abandoned his job and did not turn up for duty till date. Since the workman abandoned his job on his own without intimation to the management, so no compensation, no notice etc. was required and the question of reinstatement with back wages does not arise. The workman is not entitled to any back wages because he has abandoned his job on his own without any prior intimation to the management as a result of which the management has to suffer loss. The workman has not pleaded in the claim statement and in the affidavit that he is unemployed and that being the position in fact, the workman is not entitled for any back wages.

13. From the oral as well as documentary led by the parties, it comes out that workman has alleged that he was appointed as Sprayer by the management in May, 2008 and he remained in continuous employment of the workman up to 24.11.2022 when his services were terminated by the management with verbal order of refusing of work. So far, the date of appointment of the workman is concerned, the management in para 1 of written statement / reply on merits, categorically stated that the workman joined the management in the month of May, 2008. So far, the period of service of the workman is concerned, the management's witness MW1 in para 2 of his affidavit Exhibit 'MW1/A' categorically stated that the workman joined the management in the month of May, 2008 and worked till November, 2022. From the aforesaid facts it is proved that admittedly workman remained in un-interrupted employment of the management from May, 2008 to November, 2022.

14. It is undeniable facts of the parties that the workman is a 'workman' as defined under Section 2(s) of the ID Act and the management is 'industry' as defined under Section 2(j) of the ID Act. The fact is not disputed that the workman has completed continuous service of 240 days in 12 calendar months immediately proceedings termination of his services (services being terminated on 24.11.2022). Thus, the workman fulfills the requirement of Section 25B of the ID Act. Once the workman falls within the definition of continuous service under Section 25B of the ID Act, the provisions of Section 25F of the ID Act is attracted which lays down certain conditions that an employer must comply on retrenchment of workman. Learned Representative for the workman contended that the services of the workman were terminated on 24.11.2022 without complying with the provisions of Section 25F of the ID Act. On the other hand, the management has contested the termination claiming that the workman voluntarily abandoned the services and thus, the workman would cease to be in 'continuous service' as defined under the ID Act and Section 25F of the ID Act is inapplicable. To my opinion, the contention of the management that workman abandoned the service cannot be accepted for the reason that as and when the workman remained absent from duty, it was bounded duty of the management to issue notice asking him to report for duty and to take necessary action to terminate his services. In the present case, MW1 when put to cross-examination stated that no letter was issued to the workman for joining the duty on account of his alleged absence. The volunteer statement of MW1 that workman was telephonically informed is without any basis and thus not acceptable. In the absence of any notice, issued by the management to the workman calling him to join the duty, an inference cannot be drawn that the workman has abandoned the service. As far as compliance of Section 25F of the ID Act is concerned, MW1 in his cross-examination stated that the management has not issued the workman any show-cause notice, charge-sheet and did not hold inquiry

for alleged absence from duty. From the aforesaid version of MW1 accompanied with the fact that it is not the case of the management that workman was issued prior notice or offered or paid notice pay in lieu of prior notice or that workman was paid retrenchment compensation at the time of termination of his services, thus, it is proved that the management failed to comply with the conditions laid down under Section 25F of the ID Act. Thus, the termination of services of the workman without following the mandate of Section 25F of the ID Act, is illegal and hereby set aside. No weight can be given to the copy of whatsapp chat Mark 'A' as the same is neither pleaded in the written statement nor put to workman / AW1 in his cross-examination.

15. The willingness of the workman to re-join duty can be gathered from the facts & circumstances of the case and cross-examination of the workman where workman / AW1 has stated that he is ready to join the duty if back wages are paid. On the other hand, MW1 in his cross-examination stated that they are ready to reinstate the workman but they are not ready to pay back wages. MW1 stated that he cannot comment whether the management is ready to give benefit of continuity of service to the workman on his reinstatement because he does not know the meaning of continuity of service. MW1 in his cross-examination further stated that he is ready to reinstate the workman and he on behalf of the management agree that the issue of continuity of service and back wages be left for adjudication of this Court.

16. The services of the workman were terminated w.e.f. 24.11.2022 and immediately thereafter on 29.11.2022 the workman raised the industrial dispute challenging his order of termination as illegal and seeking reinstatement with continuity of service along with full back wages. Prompt raising of industrial dispute would disprove the management's plea of willful long absence from duty. There is no ground to assume that the workman was not willing to join the duty or that he has abandoned the job.

17. It is not the case of the workman that while terminating the services of the workman juniors to him were retained in service. Further, the workman has not placed on record any document to show that after the termination of his services the management appointed new employees in his place. As such, violation of provisions of Section 25G & 25H not proved.

18. As discussed above, verbal order of termination of services of the workman w.e.f. 24.11.2022 passed in violation to Section 25F of the ID Act is illegal, therefore, the workman will be entitled to continuity of service along with back wages.

19. As far as back wages are concerned, Learned Representative for the management argued that the workman in his claim statement and affidavit did not plead that he is unemployed, therefore, the workman is not entitled to any back wages. To my opinion, the aforesaid argument advanced by Learned Representative for the workman is devoid of merits because the workman in para 6 of the claim statement specifically pleaded that he remained unemployed during the period i.e. from the date of termination to till date. AW1 when put to cross-examination stated that at present he is not working anywhere and jobless. Learned Representative for the workman further argued that the workman is gainfully employed. To support his arguments Learned Representative for the workman referred cross-examination of AW1 wherein he stated that his family consist of himself, his father, wife and two minor children, who are school going. Monthly expenditure of his family is about ₹ 12,000/-. He earns livelihood by doing labour work and able to earn about ₹ 8,000/- - ₹ 9,000/- per month. The workman in his claim application and affidavit Exhibit 'AW1/A' pleaded that he was drawing ₹ 11,726/- per month as wages at the time of termination of his services. The management in para 1 of written reply, on merits, also pleaded that the workman was drawing wages of ₹ 11,726/- per month. Thus, the last drawn monthly wages of the workman in the tune of ₹ 11,726/- is not disputed. To my opinion, so far gainful employment is concerned, any income arising independent of any employment cannot be computed while deciding the issue of gainful employment. In the present case, the management has failed to prove adequate remuneration out of employment received by the workman during the interregnum period. Any other amount received or earned by the workman by using his / her personal skill or experience or doing the labour work and miscellaneous work cannot be considered to be the gainful employment. It is not the case of the

management that the workman is employed in any establishment during such period and is receiving adequate remuneration during any such period and the part thereof. Consequently, the management has failed to prove that the workman is gainfully employed.

20. In view of the facts & circumstances of the case, the workman is held entitled to reinstatement with continuity of service along with 75% back wages.

21. Accordingly, this issue is decided in favour of the workman and against the management.

Issue No. 2 :

22. Onus to prove this issue is on the management.

23. Learned Representative for the management argued that the present reference is not maintainable as it does not fall within the ambit of Section 2A of the ID Act. The workman has abandoned his services without assigning any reason and without intimation to the management. To my opinion, as per the detailed discussion on issue No.1 above, the management has failed to establish that the workman has abandoned the job. The management has also failed to prove the period of long absence from duty of the workman, as the workman remained in the employment of the management w.e.f. April, 2001 to 24.11.2022 and his services were terminated w.e.f. 24.11.2022 and the workman has raised the industrial dispute by issuing demand notice on dated 29.11.2022. The conciliation proceedings failed relating to the demand notice dated 29.11.2022 received in the office of Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh on 09.01.2023 and in view of the advice given by Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh vide failure report Memo No.871 dated 20.03.2023, to approach the appropriate forum for adjudication of the dispute, the workman filed the claim statement before this Court on 21.03.2023 with a valid cause of action and locus standi. Section 2A of the ID Act states that any dispute or difference between an employer and an employee that arises from the employer's termination of employee's services is considered an industrial dispute and this includes dismissal, discharge, retrenchment or any other termination. I do not find any defect so far maintainability of the present industrial dispute reference is concerned.

24. Accordingly, this issue is decided against the management and in favour of the workman.

Relief :

25. In the view of foregoing finding on the issues above, this industrial dispute is allowed. The workman is held entitled to reinstatement with continuity of service and 75% back wages. The management is directed to comply with the Award within three months from the date of publication of the same in Government Gazette failing which the management shall be liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this Award till actual realisation. Appropriate Government be informed. Copy of this Award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.) . . . ,

(JAGDEEP KAUR VIRK)

PRESIDING OFFICER,

Industrial Tribunal & Labour Court,

Union Territory, Chandigarh.

UID No. PB0152

Dated : 16.08.2024

Secretary Labour,
Chandigarh Administration.

CHANDIGARH ADMINISTRATION
LOCAL GOVERNMENT DEPARTMENT

Notification

The 29th October, 2024

No. C-30213-FII(8)-2024/16491.—In exercise of powers conferred by section 20 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 read with Rule-4 (Chapter III) of Union Territory of Chandigarh, Street Vendors (Protection of Livelihood and Regulation of Street Vending) Rules, 2015; the Administrator, Union Territory, Chandigarh is pleased to appoint **Sh. Pardeep Rai Azad, R/o 238, Sector-63, Mohali, as Chairperson** of Grievance Redressal & Dispute Resolution Committee for Union Territory, Chandigarh, for the redressal of grievances or resolution of disputes of Street Vendors. The post of Chairperson of the GRDR Committee fell vacant due to the resignation of Sh. Jasbir Singh. The tenure, remuneration and other terms & conditions will remain same as per provisions of the applicable rules.

MANDIP SINGH BRAR, IAS,
Secretary Local Government,
Chandigarh Administration.

CHANGE OF NAME

I, Divneet W/o Tejdeep Singh Khokhar # 867, Sector 48-A, Chandigarh, have changed my name to Divneet Kaur Khokhar.

[1622-1]

I, Shanti Devi Rawat W/o Chander Pal R/o 1337/C, Small Flats, Dhanas, Chandigarh, have changed my name from Shanti Devi Rawat to Chandreshvari.

[1623-1]

I, Gayatri Mehta W/o Pawandeep Singh R/o H. No. 3400, Sector 35-D, Chandigarh, have changed my name from Gayatri Mehta to Gayatri Kaur.

[1624-1]

I, Bindra Rani D/o Tara Singh, House No. 632, Sector 20-A, Chandigarh, have changed my name from Bindra Rani to Bindra.

[1625-1]

I, Inder Pal Singh Bains S/o Surinder Singh Bains # 3503, Sector 38-D, Chandigarh, have changed the name of my minor daughter from Harnoor to Harnoor Bains.

[1626-1]

I, Kiran Kumari W/o Nitesh Kumar R/o 1359, Deep Complex, Hallomajra, Chandigarh-160002, have changed my name to Kiran Devi.

[1627-1]

I, Ajit kaur W/o Hardev Singh # 189, Block-C, Sector-14 P.U. Chandigarh, have changed my name to Ajeet kaur.

[1628-1]

I, Inder Pal Singh Bains S/o Surinder Singh Bains # 3503, Sector 38-D, Chandigarh, have changed the name of my minor daughter from Jazlyn to Jazlyn Bains.

[1629-1]

I, Hari Parkash S/o Shiv Bahadur # 4685, Maloya Colony, Chandigarh, have changed the name of my minor son from Rohan *alias* Ayush to Ayush.

[1630-1]

I, Sat Prakash Aggarwal S/o Badlu Ram S.C.F. 155, T.F., Sector 26, Grain Market, Chandigarh, have changed my name to Sat Parkash Goel.

[1631-1]

I, Santosh Sukararya S/o Janki, # 508, Sector 36-B, Chandigarh, have changed my name from Santosh Sukararya to Santosh Verma.

[1632-1]

I, Mohd. Aaftab S/o Tehir Ahmed Resident of House No. 2311, New Indira Colony, Manimajra, Chandigarh, have changed my name from Mohd. Aaftab to Raju.

[1633-1]

"No legal responsibility is accepted for the contents of publication of advertisements/public notices in this part of the Chandigarh Administration Gazette. Persons notifying the advertisements/public notices will remain solely responsible for the legal consequences and also for any other misrepresentation etc."